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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 151023986-6763-02]

RIN 0648-XE284

Pacific Island Pelagic Fisheries; 2016 Commonwealth of the Northern Mariana Islands Bigeye Tuna Fishery; Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean because the fishery will reach the 2016 allocation limit for the Commonwealth of the Northern Mariana Islands (CNMI). This action is necessary to comply with regulations managing this fish stock.

DATES: Effective 12:01 a.m. local time December 1, 2016, through December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Ariel Jacobs, NMFS PIRO Sustainable Fisheries, 808-725-5182.

SUPPLEMENTARY INFORMATION: On July 22, 2016, NMFS restricted the retention, transshipment and landing of bigeye tuna captured by longline gear in the western and

central Pacific Ocean (WCPO) because the U.S. longline fishery reached 2016 U.S. bigeye tuna limit of 3,554 mt (81 FR 45982, July 15, 2016). Regulations at 50 CFR 300.224(d) provide an exception to this closure for bigeye tuna caught by U.S. longline vessels identified in a valid specified fishing agreement under 50 CFR 665.819(c). Further, 50 CFR 665.819(c)(9) authorized NMFS to attribute catches of bigeye tuna made by U.S. longline vessels identified in a valid specified fishing agreement to the U.S. territory to which the agreement applies.

Effective on September 9, 2016, NMFS specified a 2016 catch limit of 2,000 mt of longline-caught bigeye tuna for the U.S. territories of American Samoa, Guam and the Commonwealth of the Northern Mariana Islands or CNMI (81 FR 63145, September 14, 2016). NMFS also authorized each territory to allocate up to 1,000 mt of its 2,000 mt bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP).

On September 9, 2016, the Western Pacific Fishery Management Council, through its Executive Director, transmitted to NMFS a specified fishing agreement between the CNMI and Quota Management, Inc. (QMI) dated April 14, 2016. NMFS reviewed the agreement and determined that it

was consistent with the requirements at 50 CFR 665.819, the FEP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws (81 FR 64356, September 20, 2016). The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, followed the procedures in 50 CFR 665.819—Territorial catch and fishing effort limits.

In accordance with 50 CFR 300.224(d) and 50 CFR 665.819(c) (9), NMFS began attributing bigeye tuna caught in the WCPO by vessels identified in the CNMI/QMI agreement to the CNMI, beginning on September 9, 2016. NMFS monitored catches of longline-caught bigeye tuna by the CNMI longline fisheries, including catches made by U.S. longline vessels operating under the CNMI/QMI agreement. Based on this monitoring, NMFS forecasted that the CNMI territorial allocation limit of 1,000 mt will be reached by December 1, 2016, and is, as an accountability measure, prohibiting the catch and retention of longline-caught bigeye tuna by vessels in the CNMI/QMI agreement.

Notice of Closure and Temporary Rule

Effective 12:01 a.m. local time December 1, 2016, through December 31, 2016, NMFS closes the U.S. pelagic longline fishery for bigeye tuna in the western and central

Pacific Ocean as a result of the fishery reaching the 2016 allocation limit of 1,000 mt for the CNMI.

During the closure, a U.S. fishing vessel operating under the CNMI/QMI agreement may not retain on board, transship, or land bigeye tuna captured by longline gear in the WCPO, except that any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and landed, provided that they are landed within 14 days of the start of the closure; that is, by December 15, 2016.

Additionally, U.S. fishing vessels operating under the CNMI/QMI agreement are also prohibited from transshipping bigeye tuna caught in the WCPO by longline gear to any vessel other than a U.S. fishing vessel with a valid permit issued under 50 CFR 660.707 or 665.801.

During the closure, all other restrictions and requirements NMFS established on July 22, 2016, as a result of the U.S. longline fishery reaching the 2016 U.S. bigeye tuna limit of 3,554 mt (81 FR 45982, July 15, 2016) shall remain valid and effective.

If, prior to December 1, 2016, NMFS receives a valid specified fishing agreement between a U.S. longline fishing vessel(s) and another U.S. territory, any vessel included in the CNMI/QMI agreement that is also included in the

subsequent agreement may continue to transship, retain, and land bigeye tuna caught by longline gear in the WCPO.

Additionally, if any such vessel is engaged in a longline fishing trip in the WCPO on December 1, 2016, that vessel would not need to return to port before December 15, 2016. NMFS would announce any valid specified fishing agreement in the **Federal Register**.

Classification

There is good cause under 5 U.S.C. 553(b) (B) to waive prior notice and the opportunity for public comment on this action, because it would be impracticable and contrary to public interest, as discussed below. This rule closes the U.S. longline fishery for bigeye tuna in the WCPO as a result of reaching the bigeye tuna allocation limit established by the 2016 specification for catch and allocation limits of bigeye tuna for the CNMI, and the specified fishing agreement between the Government of the CNMI and QMI dated April 14, 2016.

NMFS forecasted that the fishery would reach the 2016 CNMI allocation limit by December 1, 2016. Fishermen have been subject to longline bigeye tuna limits in the western and central Pacific since 2009. They have received ongoing, updated information about the 2016 catch and progress of the fishery in reaching the U.S. bigeye tuna limit via the

NMFS web site, social media, and other means. The publication timing of this rule, moreover, provides longline fishermen with seven days' advance notice of the closure date, and allows two weeks to return to port and land their catch of bigeye tuna. This action is intended to comply with regulations managing this stock, and, accordingly NMFS finds it impracticable and contrary to the public interest to have prior notice and public comment.

For the reasons stated above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this temporary rule. NMFS must close the fishery to ensure that fishery does not exceed the allocation limit. NMFS implemented the catch and allocation limits for the CNMI consistent with management objectives to sustainably manage the bigeye tuna stock and restore the stock to levels capable of producing maximum sustainable yield on a continuing basis. Failure to close the fishery before the limit is reached would be inconsistent with bigeye tuna management objectives and in violation of Federal law.

This action is required by 50 CFR 665.819(d), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 17, 2016.

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